

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled INTEGRATED TRANSMISSION BELL HOUSING
the specification of which

(check one) ☒ is attached hereto.
☐ was filed on _____
as Application Serial No. _____
and was amended on _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, §119 (a-d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed

_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/>	<input type="checkbox"/>	
				Yes	No
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/>	<input type="checkbox"/>	
				Yes	No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status) (patented, pending, abandoned)
_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status) (patented, pending, abandoned)

(Provisional Application No.)	January 30, 2004 (Filing Date)
(Provisional Application No.)	February 6, 2004 (Filing Date)

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Robert C. Kain, Jr., Reg. No. 30,648; Martin Fleit, Reg. No. 16,900; Jon A. Gibbons, Reg. No. 37,333; Jose Gutman, Reg. No. 35,171; and Steve Bongini, Reg. No. 40,917; Paul D. Bianco, Reg. No. 43,500.

Tim T. Clark
Full name of sole ~~or~~ first inventor

Full name of sole or first inventor

~~Inventor's signature~~

Date _____

Deerfield Beach, FL
Residence

U.S.
Citizenship

4181 NW 6th Street
Post Office Address

Deerfield Beach, FL 33442

Harry L. Schoell

Full name of second joint inventor, if any

Inventor's signature

Date _____

Pompano Beach, FL
Residence

U.S.
Citizenship

281 S.E. 3rd Court
Post Office Address

Pompano Beach, FL 33060

(Supply similar information and signature for third and subsequent joint inventors.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Tim T. Clark

Serial No.

Filed: Herewith

For: Integrated Transmission Bell Housing

DECLARATION OF ROBERT C. KAIN, JR., ESQ.

I, Robert C. Kain, Jr., Esq., hereby state:

1. I am a registered patent attorney, Registration No. 30,648.
2. Tim T. Clark and Rocketek LLC retained my services as a patent attorney during February, 2004.
3. I interviewed Tim T. Clark. Based upon Mr. Clark's statements and my subsequent conversation with Harry L. Schoell, I am of the opinion that Tim T. Clark and Harry L. Schoell are joint inventors (co-inventors) of the captioned application.
4. After consultation with Tim T. Clark and Harry L. Schoell, I prepared the patent application filed with this petition. Mr. Clark had indicated that both he and Mr. Schoell are joint inventors.
5. Prior to filing the captioned application, I sent a proposed patent application to Mr. Schoell via Federal Express on February 5, 2004. A copy of the letter to Mr. Schoell is attached as Exhibit A to the Petition. In this letter, I request that Mr. Schoell

review the application and sign the patent declaration accompanying the application or forward his comments to me for review and inclusion in the patent application.

6. Exhibit B attached to the Petition is a copy of the Federal Express shipping label which accompanied the letter dated February 5, 2004 to Mr. Schoell. Exhibit C attached to the Petition is a copy of the draft patent declaration sent to Mr. Schoell with the letter dated February 5, 2004, indicating that both Mr. Clark and Mr. Schoell are joint inventors.
7. Exhibit D attached to the Petition is a copy of the proposed patent application which accompanied the letter dated February 5, 2004 sent to Mr. Schoell.
8. Exhibit E attached to the Petition is a copy of the Federal Express proof of delivery showing that the letter dated February 5, 2004 was delivered to Mr. Schoell on February 7, 2004. Exhibit page E-2 shows that Mr. Schoell signed for the Federal Express package.
9. On February 9, 2004, Mr. Schoell called my office. I spoke with Mr. Schoell at that time. I discussed the invention with Mr. Schoell.
10. Immediately thereafter, I prepared a letter to Mr. Schoell dated February 9 and sent the letter to Mr. Schoell. The letter is attached to the Petition as Exhibit F. In that letter, I recount my conversation with Mr. Schoell regarding the dispute over inventorship. The statements in the letter are true and accurate. Co-inventors Schoell and Clark are engaged in a very serious business dispute. This business dispute and other financial issues are dominating all reasonable discussions as to

whether Clark and Schoell are joint inventors of the bell transmission housing disclosed and claimed in the patent application. p. F-1.


11. Mr. Schoell told me he was the only inventor but he did not specify the nature of the invention claimed and disclosed in the captioned patent application, that is, the placement of engine accessories on the transmission bell housing of an engine. Schoell told me he invented the transmission. The patent claims do not claim a transmission. Mr. Clark does not assert rights to the transmission. Further, Mr. Schoell told me **that he refuses to sign the patent declaration**. The letter dated February 9 (Exhibit F) confirms this statement made by Harry Schoell to me wherein Harry Schoell specifically told me that he would not sign the patent declaration. p. F-2.
12. The Rules of the Patent and Trademark Office state that “If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor.” 37 C.F.R. § 1.47(a). As set forth in the exhibits and explained above, Harry Schoell, the co-inventor with Tim Clark, was presented with a patent application **and specifically refused to sign the patent declaration**.
13. The Rules of the Patent and Trademark Office also state “Whenever all of the inventors refuse to execute an application for patent ... a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make

application for patent on behalf of and as agent for all the inventors.” 37 C.F.R. § 1.47(b).

14. In the present case, the present application must be filed no later than February 11, 2004. I have been told that the invention was publicly disclosed on February 11, 2003. In order to preserve the right to obtain a patent, Tim T. Clark, co-inventor, and Rocketek LLC, assignee of co-inventor Tim T. Clark, must file the application by February 11, 2004. Further, Clark and Rocketek have sufficient proprietary interest justifying the action that the Patent and Trademark Office accept the current application without the signature of co-inventor Harry Schoell.
15. The Rules require that the petitioner show that “... such action is necessary to preserve the rights of the parties or to prevent irreparable damage.” 37 C.F.R. § 1.47(b).
16. If a patent application is not filed on or before February 11, 2004, Tim T. Clark, co-inventor, and Rocketek LLC, assignee of Tim T. Clark, cannot obtain patent rights on the captioned invention. Hence, there is a showing of necessary action to preserve the rights of co-inventor Tim T. Clark and his assignee Rocketek LLC.
17. The last known address of co-inventor Harry L. Schoell is 281 S.E. 3rd Court, Pompano Beach, FL 33060. This address is established by Exhibits A, B, C, E and F.
18. The address of co-inventor Tim T. Clark is 4181 NW 6th Street, Deerfield Beach, FL 33442. Mr. Clark has signed the enclosed declaration.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

By  2-10-2004
Robert C. Kain, Jr.
Reg. No. 30,648
Suite 100
750 S.E. Third Avenue
Ft. Lauderdale, Florida 33316-1153
(954) 768-9002

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